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BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In The Matter of)
)
Reorganization and Revision of)
Parts 1, 2, 21 and 94 of)
the Rules to Establish a New)
Part 101 Governing Terrestrial)
Microwave Fixed Radio Services)

WT Docket No. 94-148

To: The Commission

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**REPLY COMMENTS
OF
CELLNET DATA SYSTEMS**

CellNet Data Systems ("CellNet"), by its attorneys and pursuant to Section 1.415 of the rules and regulations of the Federal Communications Commission ("Commission"), hereby submits these Reply Comments in response to the Comments submitted in connection with the Commission's Notice of Proposed Rule Making ("NPRM") adopted in the above-captioned proceeding.^{1/}

I. STATEMENT OF INTEREST

1. CellNet is the developer and manufacturer of a unique wireless data communications technology. CellNet's wireless system was designed specifically for digital packet

^{1/} Notice of Proposed Rule Making, 60 Fed. Reg. 2722 (January 11, 1995). Order (adopted January 31, 1995) extending Comment date to February 17, 1995 and Reply Comment date to March 17, 1995.

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communications and uses an original two-tiered cellular structure that leads to a high-degree of spectrum efficiency and results in low per unit costs. While the system was developed primarily to assist utilities in meter reading and in the automated distribution of gas, water and electric services, the CellNet equipment also can be used for vending machine operations, security systems, traffic management, two-way electronic messaging, credit card verification and acknowledgement paging.

2. CellNet's system is composed of two operationally different components: a wide-area network ("WAN") that operates on 928/952 MHz Multiple Address System ("MAS") frequencies, and a local area network ("LAN") that uses 902-928 MHz spectrum. The LAN portion of the system provides a link between numerous, low-power remote devices and nearby transceivers. The transceivers then are connected to each other by the WAN portion of the system.

3. CellNet will operate its MAS networks on a for-profit, private carrier basis pursuant to Section 94.17 of the Commission's Rules (new Section 101.135) and will use its facilities to provide microwave capacity to other entities eligible under Part 94. To this end, CellNet has a keen interest in the Commission's proposal to consolidate Part 94 and Part 21 into new Part 101. By this filing,

CellNet now wishes to address some of the Comments filed in response to the Commission's NPRM.

II. DISCUSSION

4. CellNet generally supports the Commission's proposal to create a new rule Part 101 which will govern microwave operations by both private and common carrier licensees. In these Reply Comments, CellNet simply would like to lend its support to several items advanced during the Comment process which CellNet feels will enhance microwave operations under new Part 101. Specifically, CellNet supports the proposals (1) to allow private licensees to lease reserve capacity to common carriers, (2) to extend to two years the Part 101 construction period for all microwave systems, and (3) to modify the definition of MAS systems to indicate a construction requirement of one master and at least two remotes per license.

- A. Private Operational-Fixed Microwave Licensees Should Be Allowed to Lease Reserve Capacity to Common Carriers.

5. CellNet has noted with interest the support of a proposal to liberalize the shared use provisions which currently restrict sharing on private operational-fixed service ("POFS") microwave systems to other Part 94

eligibles.^{2/} CellNet strongly urges the Commission to modify proposed Section 101.135 and allow Part 94 licensees to lease reserve capacity to common carrier entities. CellNet respectfully suggests that the use of reserve capacity by common carriers can only enhance the efficient use of the microwave spectrum, a stated goal of the Commission in its NPRM.^{3/}

6. As a private carrier, CellNet welcomes the opportunity to have a potentially larger customer pool when identifying customers for its individualized, long-term contracts. While CellNet undoubtedly would continue to focus on Part 94 eligibles in offering its services, the ability to serve common carriers would create more opportunities for CellNet and would increase its flexibility in developing a customer base. In light of the consolidation of Parts 21 and 94 and the sharing of spectrum by both common carriers and private eligibles, CellNet contends that the time is appropriate for the Commission to allow all private microwave licenses, including those operating on point-to-multipoint MAS systems, to have the ability to lease their reserve microwave capacity to common carriers.

^{2/} Comments of The Southern Company at 4-7, Central and South West Services, Inc. at 3-6, UTC at 11-16, Omaha Public Power District at 1, Entergy Services, Inc. at 4-6, and Metropolitan Water District of Southern California at 5-7.

^{3/} NPRM at ¶ 7.

- B. The Commission Should Extend to Two Years the Construction Period for all Part 101 Licensees.

7. In new Section 101.63(a), the Commission has proposed a 12-month construction period for the large majority of private and common carrier microwave licensees. However, a wide range of commenters, from UTC to Alcatel, have urged the Commission to reconsider this proposal and extend this construction deadline.^{4/} SBC properly noted that an extended construction period "for both POFS and CCs [common carriers] is desirable because of various delays that may occur which are beyond the control of the licensee."^{5/}

8. CellNet concurs with these commenters that support the extension of the construction period. But while many of these entities support an 18-month construction deadline, CellNet agrees with WinComm and its proposal for a two-year construction period.^{6/} WinComm has properly noted the unpredictability that applicants and licensees must undergo

^{4/} Comments of UTC at 9, Alcatel Network Systems at 3. See also Comments of Western Multiplex at 4, C.S.I. Telecommunications at 2, American Petroleum Institute at 12, SBC Communications ("SBC") at 9, and Joint Comments of the National Spectrum Managers Association and the Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association at 33-34.

^{5/} Comments of SBC at 9.

^{6/} WinComm at 7.

in pursuing microwave spectrum from the Commission, especially in applying for MAS channels through the Commission's frequency "take-back" listing.^{7/} Given the level of uncertainty in the application process, and the increased difficulties in securing equipment, working with land and tower owners, local zoning problems, and inevitable weather problems, CellNet respectfully suggests that a two-year construction period is reasonable for all microwave licensees, including those operating point-to-multipoint systems, and is not adverse to the public interest.

- C. MAS Licensees Should Only Be Required to Install One Master Station and to Serve at least Two Remotes per License.

9. In its Comments, the Association of American Railroads ("AAR") supports a modification to the existing definition of MAS ("[e]ach master station must serve at least its own four remotes operating on its assigned frequency") which the Commission has proposed to be maintained in Section 101.3 of the new Part 101.^{8/} AAR argues that the revised definition should simply require an MAS licensee to serve "more than one remote," rather than a specific number of remotes.^{9/} CellNet supports AAR's

^{7/} Id. at 5.

^{8/} Comments of AAR at 7.

^{9/} Id.

position and requests that this new definition be applied to all licensees, including those who operate spectrally efficient systems.

10. CellNet also respectfully requests that the Commission clarify its rules to ensure that all MAS licensees are held to the same construction requirement: one master and "more than one remote" (as proposed by AAR) per license. To require licensees operating spectrally efficient technology to install exponentially greater numbers of masters and remotes does not serve the public interest and is inconsistent with the agency's policy in support of spectrum efficiency.

CONCLUSION

11. CellNet supports the Commission's efforts to streamline and simplify the existing Part 21 and Part 94 microwave rules. In light of Comments filed in response to the NPRM, CellNet believes that there is suitable support to modify proposed Part 101 to reflect the above suggestions especially where favorable rules can benefit both private and common carrier microwave licensees. On the record, there is agreement that the Commission should: (1) allow Part 94 microwave licensees to lease reserve capacity to common carriers; (2) extend the construction period for

Part 101 licensees to two years; and (3) revise the MAS definition to require an MAS to serve more than one remote not a specific minimum number of remotes.

WHEREFORE, THE PREMISES CONSIDERED, CellNet Data Systems respectfully requests that the Commission act upon its Notice of Proposed Rule Making in a manner consistent with the views expressed herein.

Respectfully submitted,

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